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IN THE

**Supreme Court of the United States**

October Term, 1949

**No. 25**

**ELMER W. HENDERSON,**

*Appellant,*

v.

**THE UNITED STATES OF AMERICA, INTERSTATE  
COMMERCE COMMISSION AND SOUTHERN  
RAILWAY COMPANY.**

**On Appeal from the United States District Court  
for the District of Maryland**

**MOTION FOR LEAVE TO FILE BRIEF OF ANTI-  
DEFAMATION LEAGUE OF B'NAI B'RITH AND  
AMERICAN JEWISH COMMITTEE AS AMICI CURIAE**

**JACOB GRUMET**

**MARCUS COHN**

*Attorneys for Anti-Defamation League  
of B'nai B'rith and American Jewish Committee  
Amici Curiae*

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*To the Honorable, the Chief Justice of the United States  
and the Associate Justices of the Supreme Court of  
the United States:*

The undersigned, as counsel for the Anti-Defamation  
League of B'nai B'rith and the American Jewish Commit-  
tee and on their behalf, respectfully move this Court for

leave to file a brief in this case as *amici curiae*. Permission has been secured from all parties with the exception of the intervening respondent, the Southern Railway Company, which has refused its consent.

Each of these organizations is dedicated to the preservation of democratic rights guaranteed all citizens by our Federal Constitution. Each has long since recognized that the invasion of the rights of any individual or group on the basis of race undermines the foundation of rights guaranteed to all groups in our democracy.

The present case causes us deep concern because it shows that discrimination against Negroes in interstate transportation is supported by regulations of the Interstate Commerce Commission, a Federal agency. It is high time that the "separate but equal" doctrine, on which these regulations are based, be exposed as a device to permit discrimination against Negroes. The belief in racial superiority and inferiority, which is the foundation of the "separate but equal" doctrine, is a direct negation of the ideas which underlie the American concept of democracy. We are deeply convinced that any infringement of democracy in our country is a direct threat to every racial and religious group, including American Jewry.

We intend to stress in our brief *amici curiae* that the regulations of the Interstate Commerce Commission permitting segregation, which are in issue in the present case, may operate to deny the constitutionally safeguarded rights not only of Negroes but also of non-Negroes, since the arbitrary reservation of facilities on a racial basis may deny non-Negroes access to otherwise unused facilities. We also intend to point out that the regulations of the Interstate Commerce Commission are in conflict with the treaty obligations of the United States under the United Nations Charter and with the policy which finds expression in the Universal Declaration of Human Rights, adopted and proclaimed on December 10, 1948, by the General Assembly

of the United Nations with the concurrence of the representative of the government of the United States. We believe that these arguments have not been adequately presented by the parties.

Dated, New York, New York, December 9, 1949.

JACOB GRUMET

MARCUS COHN

*Attorneys for Anti-Defamation League  
of B'nai B'rith and American Jewish Committee  
Amici Curiae*